IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.4685 of 2006

Date of Decision: 4.12.2006

Balkar Singh ..Petitioner

Vs.

AJB Developers Pvt.Limited ...Respondent

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr..S.K.Sharma Advocate,
for the petitioner.

Mr. Munishwar Puri, Advocate,
for the respondent.

Vinod K.Sharma, J. (Oral)

Present revision petition has been filed against an order passed by the learned Civil Judge (Senior Division), Amritsar allowing the application moved by the respondent-plaintiff for amending the suit.

The respondent-plaintiff had filed a suit for permanent injunction restraining the defendant from alienating the suit property in view of the agreement to sell executed between the parties. However, during the pendency of the suit, the plaintiff-respondent has sought to amend the suit to get it converted to one for specific performance.

Learned counsel for the petitioner contends that this

amendment could not have been allowed as it would change the nature of the suit i.e. one from suit for permanent injunction to suit for specific performance of agreement especially when there was no agreement between the parties.

Learned Trial Court was right in allowing the application for amendment in view of the law laid down by Hon'ble Supreme Court in **Tarlok Singh Vs. Vijay Kumar Sabharwal (1996-2) P.L.R. 649.**

However, it is made clear that the limitation for enforcement of suit for performance would be from the date of amendment as ordered by the learned Trial Court and it would be open to the petitioner to contest that there was no agreement and that the learned trial court would then decide the questions raised on appreciation of evidence.

There is no illegality in the impugned order passed by the learned Trial Court which may warrant for interference by this court in revisional jurisdiction.

Dismissed.

(Vinod K.Sharma)
Judge

4.12.2006
rp